

09-10-04

1638

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Complete if Known

Application Number	09/140,886
Filing Date	August 26, 1998
First Named Inventor	Herbert Martin WILSON
Examiner Name	David Fox
Group Art Unit	1638

Total Number of Pages in This Submission <u>8</u>	Attorney Docket Number	1205-003
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ENCLOSURES (check all that apply)

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| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Assignment Papers | <input type="checkbox"/> After Allowance Communication to Group |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
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| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Status Letter |
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REMARKS:

SUBMITTED BY		Complete (if applicable)			
NAME & REG. NUMBER	Robert J. Jondle, Reg No. 33,915				
SIGNATURE		DATE	September 8, 2004	DEPOSIT ACCOUNT USER ID	



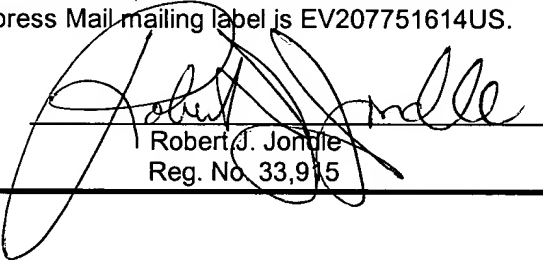
**IN THE
UNITED STATES
PATENT AND TRADEMARK
OFFICE**

<i>Application Number</i>	09/140,886
<i>Filing Date</i>	August 26, 1998
<i>First Named Inventor</i>	Herbert M. Wilson
<i>Group Art Unit</i>	1638
<i>Examiner Name</i>	D. Fox
<i>Attorney Docket Number</i>	N1205-003

Title of the Invention: **TRANSGENIC PLANTS**

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (post office to addressee) in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P O Box 1450, Alexandria VA 22313-1450 on this 8th day of September 2004. The number of the Express Mail mailing label is EV207751614US.


Robert J. Jongle
Reg. No. 33,915

AMENDMENT

Mail Stop Amendment
Commissioner of Patents
P O Box 1450
Alexandria VA 22313-1450

Sir:

In response to the Office Action mailed March 8, 2004, please consider the following remarks.

REMARKS

Claims 1-22 are rejected under 35 U.S.C. 101 because "the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility." Applicant submits that the claims specify an "agronomic characteristic." Agronomic characteristic is a term well known in the art of plant breeding and is used for traits including, but not limited to, yield, moisture, test weight, maturity, plant height,